IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1130 of 1990
WITH
MISC. CRIMINAL APPLICATION No 2447 of 1990
WITH
SPECIAL CRIMINAL APPLICATION No 1027 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT
Versus
VASANTRAI LILADHAR HINDOCHA

Appearance:
1. Special Criminal Application No. 1130 of 1990
MR.LR POOJARI, APP. for Petitioner
NOTICE SERVED for Respondent No. 1

2. Special Criminal ApplicationNo 1027 of 1990
with Misc.Criminal Application No.2447 of 1990
PARTY-IN-PERSON for Petitioner
MR LR POOJARI, APP. for Respondent No. 4

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 24/03/2000

COMMON ORAL JUDGEMENT

Special Criminal Application No.1130 of 1990 has been filed by the State of Gujarat for quashing the order dated 12.6.1990 issuing the process to Respondent Nos. 2 to 4 in Criminal Case No.265 of 1990 filed by Respondent No.1 in the Court of J.M.F.C.,Jamjodhpur.

In the general election to the Lok Sabha held in 1989 Janta Dal came to power and Shri V.P.Singh, Respondent No.2 became the Prime Minister, Respondent No.3 Shri Madhu Dandavate became the Finance Minister and Respondent No.4 Shri Nathuram Mirgha became Minister for Food and Civil Supplies. On 12.6.1990, Respondent No.1 filed criminal complaint before the learned JMFC, Jamjodhpur, District Jamnagar against the Respondent Nos. 1,2 and 3 alleging that they have committed offence punishable under section 418 read with section 34/114 of the Indian Penal Code. The complaint is incoherent and rambling. The sum and substance of the complaint was that in its manifesto Janta Dal had highlighted the issue of cost of living and had given promises that steps would be taken to bring down prices, if Janta Dal came to power. However, Respondent Nos. 1 to 3 had failed to deliver goods after assuming office. The learned Magistrate ordered the complaint to be taken on the register and issued process to Respondent Nos. 2 to 4 returnable on 16.7.1990. The State of Gujarat had filed Special Criminal Application No.1130 of 1990 on 8.7.1990 for quashing the said order.

It is not necessary to reproduce all that is stated in the complaint. It is very clear that by no stretch of imagination can it be said that it discloses any offence punishable under section 420 of the Indian Penal Code. The complaint was vexatious and frivolous and the learned Magistrate ought to have applied his mind before issuing the process.

In the circumstances, the order issuing process cannot be sustained. The petition is therefore allowed and the order dated 12.6.1990 passed by the learned Magistrate, Jamjodhpur issuing process in Criminal Case No.265 of 1990 is quashed and set aside and the said complaint is ordered to be dismissed. Rule made absolute accordingly in Special Criminal Application No.1130 of 1990.

It appears that the learned Sessions Judge had taken the impugned order of the Magistrate in suo motu revision but he did not proceed with the same since the State filed a petition for quashing the complaint. The respondent no.1 however, filed Special Criminal Application No. 1027 of 1990 challenging the order of the learned Sessions Judge. It does not now survive and is accordingly disposed of. Similarly Misc. Criminal Application No.2447 of 1990 filed by the Respondent No.1 too, does not survive and is disposed of. Rule is discharged in both the matters.

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m.m.bhatt